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Sixty-seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1770th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 July 1999, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1770/Add.1.

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The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Report of the Chairperson on the Eleventh meeting of chairpersons of human rights treaty bodies (continued)

1. The CHAIRPERSON, replying to the questions raised by members of the Committee, said that, without going into the details of the draft plan of action, which would be examined subsequently (document published as HRI/MC/1999/Misc.3 in English only), the chairpersons of human rights treaty bodies had been informed of it only at the opening of the session. According to the explanations provided, the plan of action which concerned the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture, supplemented those that had been prepared with a view to promoting the application of the Convention on the Rights of the Child and the International Covenant on Economic Social and Cultural Rights, and would be implemented at the same time. Replying to a question raised by Ms. Chanet, she said that members of the Committee would find the report of the workshop on gender integration in the "Miscellaneous" section of the files containing the reference documents for the session.

2. She noted that the agenda for the meeting of chairpersons, the draft report of which had been distributed in a document without symbol and in English only, had been drawn up by the secretariat. It went without saying that any suggestions that might be made by the bodies concerned would be duly taken into account. Replying to several members of the Committee who had requested more details about Mrs. Bayefski's study on the effective functioning of the treaty bodies, she said that a short summary of the study, which raised more questions than it provided answers, had been distributed at the meeting (see para. 10 of the draft report of the meeting). In a brief introduction to her study, Mrs. Bayefski had stated that it consisted of two parts devoted, respectively, to the impact of the work of treaty bodies at the national level on the one hand and, on the other, to the support services required by the various committees and the ways in which the organization of their work could be improved. Mrs. Bayefski had also stated that she had studied the various stages comprising each procedure - in the case of communications, for example, from the time a letter was initially received to the adoption of the final decision. She had also tried to determine, in the light of the services being received by each Committee, which of them could be provided over the medium and long term. In her introduction, therefore, Mrs. Bayefski had confined herself to general observations without providing any specific facts.

3. Referring to the question of technical briefings discussed in paragraph 41 of the draft report, she made it quite clear during the meeting that it was for the treaty bodies themselves to inform their new members of the dates of such briefings and that they should be left to decide whether or not to use the model proposed in document HRI/MC/1999/Misc.2 (English only). The chairpersons had made no recommendation on the proposal that the representatives of treaty bodies should be granted formal status in the Commission on Human Rights because they rejected any possibility of an organic link with the Commission, whose functions were completely different from those of the Committees. Furthermore, the distinction that certain members of the Committee had wanted to make between standardization on the one hand and

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harmonization and coordination on the other was quite understandable. The need to resist any form of standardization should not, however, obscure the fact that lack of coordination raised serious problems, not only in relationships with member States but also in relations with their peoples. As stated by Mrs. Gaitan de Pombo, contradictory recommendations adopted by various bodies of the United Nations would inevitably tarnish its image and undermine its credibility.

4. Referring to the proposal for the creation of a core team to service the communications procedures of certain committees, she said that the only information available so far had been set out in paragraph 17 of the draft report on the meeting. Lastly, as regards the question of corporate responsibility for human rights, referred to in paragraph 69 in the draft report, Mr. Scheinin's idea of including in the Committee's reply details of situations encountered during its consideration of the reports of member States and communications deserved support.

5. The proposal presented in paragraph 35 (f) of the draft report had been included because of a fear that contradictory decisions adopted by various mechanisms would deprive their jurisprudence of legality. Moreover, the idea outlined in paragraph 35 (k) was intended among other things to enable various committees to know in which countries various special rapporteurs happened to be or intended to go, so as to facilitate possible consultations.

6. Ms. CHANET said that once again members were having to work with documents which had not been translated into all the Committee's languages. No problems arose in the case of a short paper but the situation was quite different in the case of a voluminous document such as the plan of action. Perhaps it had not even been submitted for translation.

7. Mr. DE ZAYAS (Secretary of the Committee) said that, according to information he had received the previous day from the secretariat of the meeting of chairpersons, the document had not been submitted for translation. The draft report of the meeting itself had not yet been translated because several chairpersons of treaty bodies wanted to make additions to it.

8. The CHAIRPERSON said it had been decided not to have the final text of the plan of action translated. However in view of the impact its adoption might have on the work of the treaty bodies, she had considered it important to have it distributed to members of the Committee so that they could acquaint themselves with its content, even if only in English.

9. Mr. LALLAH said that there were many matters of common interest that certain participants in the meeting could tackle instead of seeking to encroach upon the prerogatives of treaty bodies. They could, for example, explore possibilities of making international financial institutions aware of the commitments assumed by States parties to various international instruments in the hope that they would cease imposing on Governments conditions which made it difficult to promote human rights; the Committee might formulate a general observation on cooperation in that field. He and Mr. Zakhia would be prepared to draw up a working paper on the subject.

10. Mr. AMOR, while recognizing the importance of cooperation between the various committees and other mechanisms dealing with human rights with a view to solving common problems, drew attention to a number of initiatives launched in recent years which were contrary

to the principles underlying the activities of treaty bodies and likely to restrict their functions or encroach upon their prerogatives; for that reason he wholeheartedly supported Mr. Lallah's proposal. Cooperation should be focused on exchanges of information and efforts to provide various committees with the human and material resources they needed to do their work.

Draft plan of action to strengthen the implementation of the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (continued) (document HRI/MC/1990/Misc.3, English only)

11. The CHAIRPERSON said that the replies of the Office of the High Commissioner for Human Rights to questions raised in connection with the draft plan of action revealed that the intention was to take into account as much as possible the views of various advisory bodies but that the final decision was not up to them. The discussions with the representatives of the Office of the High Commissioner had been difficult. The general impression was that the two parties did not see things in the same light. The main problem encountered concerned the financing of the activities of treaty bodies. It had been clearly explained to the representative of the Office of the High Commissioner that the members of the Committee could in no way go along with the proposal that their normal activities should be financed from extrabudgetary funds. The matter involved the independence of treaty bodies. Such funds could be used in a selective manner, such as for creating temporary follow-up machinery. But once such machinery had become part of their normal activities, financing from extrabudgetary sources should cease immediately. Mr. Ramcharan's reply to that idea had been that it was virtually impossible to obtain additional funds under the budget, thereby giving the impression that the new method of financing was being proposed on a take it or leave it basis.

12. Mr. YALDEN noted that subparagraphs (a) to (k) under the "Expected outputs" heading (para. 48) consisted of a series of objectives which were not based on any concrete information. For example, in subparagraph (g), which was of direct interest to the Committee, it was stated that the communications backlog would be cleared by the end of the period covered by the plan of action. The obvious question was how had that conclusion been reached, particularly when there was nothing to indicate that the funding and staffing proposed in the annex were sufficient. What, exactly, did the Office of the High Commissioner want: since the document dealt essentially with management matters which were outside the province of the committees, was it only seeking their approval?

13. The CHAIRPERSON explained that the representative of the Office of the High Commissioner had simply wanted to know whether the proposals made in the draft plan of action were likely to facilitate the Committee's work - for example, whether an additional one-week meeting each year would be useful. The last few pages of the draft dealing with financial management matters should not even have been submitted to the Committee.

14. Mr. LALLAH noted that, in paragraph 48 of the draft, subparagraph (a), part of subparagraph (b) and subparagraphs (g) and (k) under the "Expected outputs" heading, were of particular interest to the Committee. In his view, subparagraph (a) constituted interference in the organization of the work of the Committee, which alone was in a position to decide how its methods of work should be improved and which, for that purpose, had decided to review

regularly its guidelines on the preparation of reports. Moreover, he considered that only United Nations budgetary appropriations could be used to finance the Committee's work. As for subparagraph (b), he could only say that country analyses were indeed of great help. On the other hand, the proposal to hold meetings between sessions, made in subparagraphs (g) and (k), appeared to be completely illogical. Members of the Committee could not process hundreds of letters by themselves. So long as the General Assembly did not earmark funds enabling the secretariat to recruit additional staff to perform the groundwork that had to precede the examination of communications, backlogs could not be cleared. He was, however, in favour of the database.

15. The CHAIRPERSON explained that members of the Committee would be able to express their views on the various aspects of the draft before its adoption, which would take place at the beginning of August.

16. Mr. SCHEININ observed that the wording of paragraph 7 was not sufficiently clear and that it should have been stated that it was only through its guidelines that the Committee could help States parties in the preparation of their reports. Admittedly, that was simply a question of form. As for the substance, he was surprised by the length of the list of "Expected outputs" in paragraph 48, and was of the view that they should have been listed in order of priority. Country analyses did not, in his opinion, have priority. It was not the secretariat's function to undertake analyses, as an independent body, but rather to assist the Committee in its work in a practical and specific manner. The Committee would be better advised to emphasize the communications backlog (subparagraph (g)) and communications follow-up (subparagraph (f)). Lastly, he agreed with the Chairperson that the Committee's normal work should not be financed by external funds. In that respect paragraph 52 in particular raised problems, since it anticipated the use of voluntary contributions. In his opinion the examination of communications should not depend on voluntary contributions on which the Committee could not count.

17. The CHAIRPERSON said it was not the intention to request the secretariat to undertake other analyses for the Human Rights Committee; the reference to analyses in paragraph 48 (b) concerned other bodies. She added that only two persons, one of whom was herself, had objected to external financing at the Eleventh meeting of the chairpersons of treaty bodies, and that therefore the other bodies appeared to have accepted the idea.

18. Mr. POCAR took a less negative view of the draft. He regarded it - or at least the second half - as a genuine attempt to provide answers to questions that had been evaded too long. He recalled that, according to article 36 of the Covenant, the Secretary-General was required to provide the necessary staff and facilities for the effective performance of the Committee's functions. The question whether the necessary resources should be appropriated under the ordinary budget or sought outside was a matter for the Secretary-General and not the Committee. What was important was that they should be available. However, he shared Mr. Scheinin's opinion that priorities should have been established. Moreover, such priorities would undoubtedly vary from one body to another since some of them did not have to examine communications.

19. Mr. KLEIN observed that, as on many occasions the Committee had complained that its needs were not being recognized, it should welcome any attempt to make good its lack of

resources. He too considered that an order of priority should have been drawn up but, generally speaking, found all the proposals set out in the "Expected outputs" part of paragraph 48 acceptable. He was sceptical only about paragraph 47. How could six bodies draft a coordinated general comment when it was already so difficult to reach agreement on a general comment in a single committee? Moreover, each body had its own experience and proceeded at its own pace. When one of them displayed a sound initiative it could be followed by the others, whereas to oblige all bodies to take the same initiatives at the same time would above all carry the danger of their all committing the same errors.

20. Ms. EVATT said she was not opposed to the use of external resources. She simply wanted to sound a note of warning that, if the secretariat succeeded in taking on the necessary staff to perform the preparatory work, the burden of clearing the backlog would fall on the Committee itself.

21. Lord COLVILLE said that, since the Committee had to react to the draft, he proposed drawing up a reply which could be incorporated in the annual report so that it would reach a wider public. The reply should indicate the Committee's priorities and also make proposals - for example, it could suggest that reports should be followed-up more thoroughly. He was not opposed to the use of new sources of financing provided that they were used not for the Committee's normal work but for new and one-off activities. It was completely unrealistic to rely on voluntary contributions for the Committee's normal work.

22. Mr. ANDO said he appreciated the good intentions displayed by the secretariat and supported the idea of establishing an order of priority and creating a database. In his view, the two questions that arose concerned the maintenance of the Committee's independence and the ability of members to meet between its sessions, since they were not working on a permanent basis for the Committee, as was the case in the European institutions for example, and had other work to attend to in their own countries.

23. Mr. AMOR said that in general he was of the same opinion as Mr. Yalden, and added that the Committee's three priorities should be the consideration of reports, the examination of communications and follow-up, since major delays both in respect of the reports as well as communications could undermine the Committee's credibility. How could the delays of several years which occurred between the submission of reports and their consideration be justified to States parties which were asked to submit their report on a specific date? Delays were even more regrettable for victims who had submitted a communication. The secretariat was displaying more than admirable devotion but it could not work miracles and make light of the lack of material, human and financial resources. For that reason he was in favour of the use of any new resources, regardless of origin.

24. Mr. BHAGWATI took the view that it was exclusively for the Secretary-General to make a choice between various ways of increasing the resources assigned to the Committee and that, regardless of origin, any supplementary resources would be welcome since they would improve the Committee's situation. It was also a fact that, apart from the difficulties encountered by the secretariat, which was doing excellent work with few staff, the Committee itself was not succeeding in performing its task properly and should give thought to ways of remedying the situation.

25. It was important that the Committee should state its views on the text of the draft, which was quite satisfactory, although its reply should not be included in the annual report because it concerned something that was still only a proposal. What was important was that the Committee should clearly define its priorities in respect of the proposals made in paragraph 48 and inform the Office of the High Commissioner accordingly.

26. Mr. SOLARI YRIGOYEN said that, although the Eleventh session of the chairpersons of treaty bodies had certainly been useful, that type of meeting should not be institutionalized for fear of creating an additional United Nations body whose powers and competence would be extremely vague.

27. He noted that the text of the draft was available only in English and observed that English was only one of the official languages of the United Nations and only one of the Committee's working languages. It was therefore unfortunate that English was regarded as a sort of "compulsory language" within the Committee. Although it was important that the Committee should react to the draft, it should therefore not consider itself bound by the deadline laid down, particularly as the priority of the Office of the High Commissioner should have been to have the document translated into the Committee's other working languages.

28. He agreed with Mr. Pocar's views on the sources of financing for treaty bodies. It would obviously be gratifying if the Committee could obtain additional resources in fulfilling its mandate, although it should be borne in mind that other elements should also be taken into account in that connection, such as the length and number of sessions. Generally speaking, he was not really optimistic that additional resources could be obtained.

29. Mr. ZAKHIA expressed his admiration for the work done by the chairperson and the members of the secretariat with such limited resources, and wholeheartedly endorsed the views expressed by Mr. Amor on the subject. Assuming that the Committee would not obtain any additional resources, the difficulties it faced would clearly increase with each passing year. In particular, in the case of the Optional Protocol procedure, an increasing number of States would ratify the Protocol and the Committee would consequently receive an increasing number of communications. In order to escape from that dilemma, the Committee might consider stating quite unequivocally to the competent bodies of the United Nations that, if the situation was not improved, it would be obliged to choose between the consideration of the reports of States parties and the examination of communications from individuals, since it was unable to cope with the two procedures simultaneously.

30. The CHAIRPERSON took an even gloomier view of the situation than Mr. Zakhia, and had informed Mr. Ramcharan that she was seriously considering resigning from the Committee since she was ashamed of the way it was treating States parties and authors of communications.

31. She had also made it clear to Mr. Ramcharan that the solution of the problem of delays in the examination of communications could not await the adoption of the plan of action. He had assured her that he would deal with the matter immediately, although the meaning of the word "immediately" was unclear.

32. In concluding the discussion on the draft plan of action, she announced that the Committee would present its formal comments in the way suggested by Lord Colville and requested the secretariat to prepare a draft text to be distributed to members and, in principle, adopted before the end of the present session.

33. Mr. ZAKHIA suggested that a clear indication, supported by statistics, should be provided of the increase in the Committee's workload since its establishment, and attention drawn to the number of States parties which had ratified the Optional Protocol since that date, the number of communications received by the Committee, etc.

34. The CHAIRPERSON said that Mr. Zakhia's suggestion would be taken into account.

The public part of the meeting rose at 11.40 a.m.